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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant: Louis Chevallier
Serial Number: 09/806,393
Atty. Dkt: PF980067
Filing Date: June 4, 2001
For: METHOD AND DEVICE FOR SERVICE DATA MANAGEMENT IN
A TELEVISION SYSTEM
Art Unit: 2623
Examiner: Dominic D. Saltarelli

APPEAL BRIEF

**Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**

Sir:

In response to the Notice of Appeal filed on September 13, 2007 and the Advisory Action dated September 25, 2007, Appellant hereby submits an Appeal Brief in accordance with 37 C.F.R. §41.37 for the above-referenced application.

I. Real Party in Interest

The real party in interest is Thomson Licensing LLC.

II. Related Appeals and Interferences

There are no prior or pending appeals, interferences, or judicial proceedings known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. Status of Claims

Claims 8-15 are pending in this application, and are rejected. The rejection of claims 8-15 is being appealed.

IV. Status of Amendments

No amendment subsequent to the final rejection of April 9, 2007 has been filed.

V. Summary of Claimed Subject Matter

Independent claim 8 defines a process for managing service data in a television system in which the service data are transmitted (page 3, lines 24-26). The process comprises a step of acquiring information containing a list of broadcast services and supplementary data relative to these services and of storing the acquired information in a first database of a receiver (page 3, lines 28-29 and page 5, lines 1-5). The process further comprises the step of copying information stored in the first database to a second database of the receiver for the updating of the second database (page 3, lines 30-32). The second database has a same logical structure as the first database and the copying stores data in the first database and the second database in an identical manner (page 13, line 30 to page 14, line 9). The process further comprises the step of making the data stored in the second database available to at least one application of the receiver (page 3, lines 33-35). When the acquired list of broadcast services changes, the process further comprises the step of acquiring the new list of services in the first database, and of copying the acquired list of broadcast services to the second

database when the entire list has been acquired in the first database (page 12, lines 14-31).

Claim 9 depends from claim 8 and states that the updating of the second database is performed immediately after acquiring a service datum (page 4, lines 3-5).

Claim 10 depends from claim 8 and states that the updating of the second database is performed after a predetermined time interval after a request for acquisition of a service datum (page 4, lines 17-20).

Claim 11 depends from claim 9 and states that the updating of the second database is performed after a predetermined time interval after a request for acquisition of a service datum (page 4, lines 17-20).

Claim 12 depends from claim 8 and states that the updating of the second database is performed only following a request of an application (page 4, lines 25-27).

Claim 13 depends from claim 9 and states that the moment of the update is dependent on the type of the service datum (page 4, lines 33-35).

Claim 14 depends from claim 8 and states that when a service changes, new supplementary information relating to this service is acquired and the updating of the second database with the new supplementary information is suspended until a request of an application (page 5, lines 6-10).

Independent claim 15 defines a television receiver in a television system with transmission of service data (page 5, line 15). The television receiver comprises means (element 360) for acquiring information containing a list of broadcast services and supplementary data relative to these services (page 5, lines 1-3 and 15). The television receiver further comprises means (installer 310 of FIG. 4) for storing information in a first service database (page 5, line 16). The television receiver further comprises means (acquisition part of database 300 of FIG. 4) for copying the acquired list of

broadcast services to a second database having a same structure as the first database (page 13, line 30 to page 14, line 9). The television receiver further comprises detection means (controller 350 of FIG. 4) of a change of list of broadcast services that controls the means for copying the list of broadcast services when the entire list has been acquired in the first database (page 12, lines 14-31). The second database has a same logical structure as the first database, and the copying stores the acquired list of broadcast services stored in the first database in the second database in an identical manner as it is stored in the first database (page 13, line 30 to page 14, line 9).

VI. Ground of Rejection to be Reviewed on Appeal

The rejection of claims 8-15 under 35 U.S.C. §103(a) based on U.S. Patent No. 5,550,576 issued to Klosterman (hereinafter, "Klosterman") in view of U.S. Patent No. 5,530,939 issued to Mansfield, Jr., et al. (hereinafter, "Mansfield, Jr.") is presented for review in this appeal.

VII. Argument

The rejection of claims 8-15 under 35 U.S.C. §103(a) based on the proposed combination of Klosterman and Mansfield, Jr. should be reversed for at least the following reasons.

A. Independent Claims 8 and 15

Independent claims 8 and 15 recite:

"Process for managing service data in a television system in which the service data are transmitted, comprising a step of acquiring information containing a list of broadcast services and supplementary data relative to these services and of storing the acquired information in a first database of a receiver; wherein the process comprises the step of:

- copying information stored in the first database to a second database of the receiver for the updating of the second database, the second database having a same logical structure as the first database, wherein the copying stores data in the first database and the second database in an identical manner;

- making the data stored in the second database available to at least one application of the said receiver, and

- when the acquired list of broadcast services changes, of acquiring

the new list of services in the first database, and of copying the acquired list of broadcast services to the second database **when the entire list has been acquired in the first database.**"(emphasis added; see claim 8), and

"Television receiver in a television system with transmission of service data, comprising:

- means for acquiring information containing a list of broadcast service and supplementary data relative to these services;
- means for storing information in a first service database;
- means for copying the acquired list of broadcast services to a second database having a same structure as the first database;
- detection means of a change of list of broadcast services, the detection means controlling the means for copying the list of broadcast services **when the entire list has been acquired in the first database;**

wherein, the second database has a same logical structure as the first database, and the copying stores the acquired list of broadcast services stored in the first database in the second database in an identical manner as it is stored in the first database. (emphasis added; see claim 15)

As indicated, independent claims 8 and 15 respectively define a process for managing service data in a television system and a television receiver in a television system with transmission of service data. According to both claims, information containing a list of broadcast services and supplementary data relative to these services is acquired and stored in a first database. When the acquired list of broadcast services changes, a new list of services is acquired in the first database, and is copied to a second database when the entire list has been acquired in the first database.

Neither Klosterman nor Mansfield, Jr., whether taken individually or in combination, teach or suggest, *inter alia*, the aforementioned feature in which a new list of services is copied from a first database to a second database when the entire list has been acquired in the first database. In formulating the instant rejection, the Examiner admits that Klosterman fails to disclose the aforementioned feature, and relies on Mansfield, Jr. for allegedly disclosing it. In particular, the Examiner relies on column 2, line 66 to column 3, line 9 of Mansfield, Jr. (see pages 2-4 of the final Office Action dated April 9, 2007), which states:

“A data base snapshot is a copy of all or part of the data base that is isolated from update activity. Database snapshots are often used when a series of queries are to be processed and where the database must not change during the processing of those queries. Database snapshots are also used to permit simultaneous query processing against a copy of a database in situations where the processing capacity of the primary copy is utilized entirely to support transaction processing. Database snapshots may contain the entire database, or may contain a subset of the database as defined by specific selection predicates.”

In response, Appellant notes that the foregoing cited passage of Mansfield, Jr. does not expressly define the timing of the copying that creates the “database snapshot.” Accordingly, the proposed combination including Mansfield, Jr. fails to teach or suggest, *inter alia*, the claimed feature of independent claims 8 and 15 in which a new list of services is copied from a first database to a second database when the entire list has been acquired in the first database.

On page 2 of the Advisory Action dated September 25, 2007, the Examiner responds to Appellant’s foregoing argument by stating:

“Applicant argues that the secondary reference, Mansfield, does not disclose the claimed limitation of ‘copying the acquired list to the second database when the entire list has been acquired in the first database’. However, Mansfield clearly discloses that the very purpose of the disclosed ‘database snapshots’ are for providing means for allowing queries of database records when the primary database is entirely dedicated to ‘transaction processing’, see col. 3, lines 3-6. Therefore, in actual use, the database snapshot is kept up to date only after an update to the primary database has taken place, because that is how the purpose of the ‘database snapshot’ is implemented. It is unreasonable to assume that Mansfield even contemplates the creation of the ‘database snapshot’ at any time other than after the primary database has been fully updated.” (emphasis added)

Appellant respectfully disagrees with the Examiner’s foregoing statement (and in particular, the underlined portion thereof). In response, Appellant notes that the express teachings of Mansfield, Jr. suggest that the “database snapshot” (i.e., copy of the primary database) is actually created before the primary database has been fully updated and/or during the process of updating the primary database. In particular,

Mansfield, Jr. expressly states that a “database snapshot is a copy of all or a part of the [primary] database” (emphasis added; see column 2, line 66) and that “[d]atabase snapshots may contain the entire [primary] database, or may contain a subset of the [primary] database” (emphasis added; see column 3, lines 7-8). The only stated limitation regarding the “database snapshot” of Mansfield, Jr. is that it is “isolated from update activity” (see column 2, line 66). Accordingly, given that the “database snapshot” may represent less than the entire primary database, a fair reading of Mansfield, Jr. by one of ordinary skill in the art in such cases suggests that the “database snapshot” is created before the primary database has been fully updated because such a technique enables the “database snapshot” to be created as quickly as possible, while also ensuring that the “database snapshot” is “isolated from update activity.”

Moreover, even in cases where the “database snapshot” represents the entire [primary] database, a fair reading of Mansfield, Jr. by one of ordinary skill in the art in such cases suggests that the “database snapshot” is created during the process of updating the primary database (i.e., the “database snapshot is created while the primary database is being updated). Again, one of ordinary skill in the art is likely to interpret Mansfield, Jr. in this manner because such a technique enables the “database snapshot” to be created as quickly as possible, while also ensuring that the “database snapshot” is “isolated from update activity.”

Appellant further notes that the aforementioned interpretation of Mansfield, Jr. does not in any way conflict with column 3, lines 3-6 of Mansfield, Jr. (cited by the Examiner in the above-referenced quote from the Advisory Action dated September 25, 2007) which states that “[d]atabase snapshots are also used to permit simultaneous query processing against a copy of a database in situations where the processing capacity of the primary copy is utilized entirely to support transaction processing.” Rather, Appellants submit that this passage of Mansfield, Jr. simply indicates that both the database snapshot and the primary database may be used simultaneously for processing purposes after the database snapshot is created.

In view of the foregoing arguments, Appellant submits that the proposed combination of Klosterman and Mansfield, Jr. fails to teach or suggest, *inter alia*, the claimed feature of independent claims 8 and 15 in which a new list of services is copied from a first database to a second database when the entire list has been acquired in the first database. Accordingly, Appellant respectfully requests that the Board reverse the rejection of independent claims 8 and 15.

B. Dependent claims 9-14

On pages 4-6 of the final Office Action dated April 9, 2007, the Examiner addresses dependent claims 9-14 by simply taking "Official Notice" that the subject matter of these claims is well known in the art. In response, Appellant respectfully traverses the Examiner's conclusory allegations that the subject matter of claims 9-14 is well known in the art, and submits to the Board that the Examiner must either cite one or more prior art references to support his position, or withdraw the rejection. Accordingly, Appellant submits that the rejection of dependent claims 9-14 based on the Examiner's "Official Notice" is improper, and respectfully requests that the Board reverse the rejection of dependent claims 9-14.

VIII. Claims Appendix

8. Process for managing service data in a television system in which the service data are transmitted, comprising a step of acquiring information containing a list of broadcast services and supplementary data relative to these services and of storing the acquired information in a first database of a receiver; wherein the process comprises the step of:

- copying information stored in the first database to a second database of the receiver for the updating of the second database, the second database having a same logical structure as the first database, wherein the copying stores data in the first database and the second database in an identical manner;

- making the data stored in the second database available to at least one application of the said receiver, and

- when the acquired list of broadcast services changes, of acquiring the new list of services in the first database, and of copying the acquired list of broadcast services to the second database when the entire list has been acquired in the first database.

9. Process according to Claim 8, wherein the updating of the second database is performed immediately after acquiring a service datum.

10. Process according to Claim 8, wherein the updating of the second database is performed after a predetermined time interval after a request for acquisition of a service datum.

11. Process according to Claim 9, wherein the updating of the second database is performed after a predetermined time interval after a request for acquisition of a service datum.

12. Process according to Claim 8, wherein the updating of the second database is performed only following a request of an application.

13. Process according to Claim 9, wherein the moment of the update is dependent on the type of the service datum.

14. Process according to Claim 8, wherein the process furthermore comprises the steps of:

- when a service changes, acquiring new supplementary information relating to this service and suspending the updating of the second database with the new supplementary information until a request of an application.

15. Television receiver in a television system with transmission of service data, comprising:

- means for acquiring information containing a list of broadcast service and supplementary data relative to these services;
- means for storing information in a first service database;
- means for copying the acquired list of broadcast services to a second database having a same structure as the first database;
- detection means of a change of list of broadcast services, the detection means controlling the means for copying the list of broadcast services when the entire list has been acquired in the first database;

wherein, the second database has a same logical structure as the first database, and the copying stores the acquired list of broadcast services stored in the first database in the second database in an identical manner as it is stored in the first database.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.

Please charge the fee for this Appeal Brief to Deposit Account 07-0832.

Respectfully submitted,


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November 9, 2007

CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop Appeal Brief, Commissioner for Patents, Alexandria, Virginia 22313-1450 on:

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